



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 4, 2022

BY EMAIL (respectfully submitted under seal)
BY ECF (as redacted)

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

**Re: *United States v. Joshua Adam Schulte*,
S3 17 Cr. 548 (JMF)**

Dear Judge Furman:

The Government respectfully submits this letter pursuant to the Court's order, dated January 31, 2022 (D.E. 690), directing the Government to explain the current status of documents undergoing classification review and the reason for any delay.

With respect to [REDACTED] because the Government has requested that the entire submission be maintained under seal (*see* Gov't's Dec. 17, 2021 Classified Ltr. at 4), the classifying authority has not undertaken further classification review or redaction of the entire document. (*See* Dec. 20, 2021 Tr. at 45-47 (noting that requiring such a review or marking "if [the documents are] going to be under seal or *ex parte* or *in camera* in their entirety . . . seems like a gratuitous burden," and directing the Government to instead "identify the level of classification for the documents"). The Government's December 17, 2021 classified letter identified for the defendant the portions [REDACTED] that contained classified information, and directed him to the markings that originally identified that information as classified [REDACTED]. (*See* Gov't's Dec. 17, 2021 Classified Ltr. at 2-3). Accordingly, neither the Government nor the classifying authority believe that further classification review or marking [REDACTED] is necessary.

As for other filings, the Classified Information Security Officer ("CISO") provided the defendant's December 28, 2021 classified filing to the classifying authority for classification review on January 14, 2022, and, on January 28, 2022, the classifying authority returned to the CISO both a redacted copy for filing on the docket¹ and a marked copy for the defendant that

¹ This version does not yet appear to have been filed by standby counsel.

incorporates the classification block. The defendant's January 28, 2022 classified filing was provided to the classifying authority for a classification review by the Government the same day that it was filed, and is currently undergoing that review. The Government is not aware of any other documents requiring classification review at this time.

The Government has proposed a formal schedule and process for classification reviews to be incorporated in the updated protective order pursuant to Section 3 of the Classified Information Procedures Act. (*See* D.E. 670 Ex. 1 at ¶ 23). To the extent the Court adopts that proposal, or sets an alternative schedule for classification reviews, the Government and the relevant classifying authorities are committed to complying with it.

Because this letter describes portions of the Government's December 17, 2021 classified letter, which was submitted under seal, the Government respectfully requests that the Court seal the redacted portions of this letter that discuss that submission, for the same reasons set forth in the Government's December 17, 2021 classified letter.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by: /s/
David W. Denton, Jr. / Michael D. Lockard
Assistant United States Attorneys
(212) 637-2744 / -2193

cc: Standby counsel (by ECF and email)
Joshua Adam Schulte (by mail)